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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,575	02/16/2006	Christoph Hilgert	710270034	7141

7590 12/04/2007
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EXAMINER

PATEL, VISHAL A

ART UNIT	PAPER NUMBER
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3676

MAIL DATE	DELIVERY MODE
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12/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,575

Applicant(s)

HILGERT ET AL.

Examiner

Vishal Patel

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 8-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of species III, figures 4-4a in the reply filed on 10/9/07 is acknowledged. Furthermore claims 11-12 are directed to non-elected specie; in conclusion claims 4 and 8-12 are withdrawn. Claims 1-3 and 5-7 are elected.
This election/restriction is made final.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7, "two functional layers", unclear how many functional layer applicant is trying to claim in view of claim 1 having at least one functional layer? For examination purpose the claim are directed to two functional layers.

Claim 7, "at least one leveling layer", unclear how many leveling layers applicant is trying to claim in view of claim 1? For examination purpose the claim is directed to having at least one leveling layer.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Udagawa (US. 4,776,073).

Udagawa discloses a metal gasket comprising at least one functional layer (26) showing at least one through-opening (Hc), as well as at least one leveling layer (25) and/or cover layer (20) that covers the functional layer at least partially, the functional layer (20), in the pre-assembled state of the gasket, is formed as a flat piece of metal to which is assigned (the functional layer is flat), at least in the area of the through-opening, **at least one profiled body through which in the assembled state of the gasket through a deformation of the functional layer (intended use and the gasket of Udagawa is capable of being mounted between two members)**, at least one sealing area with elastic effect can be created, the profiled body is formed by a stopper element (21) and the leveling layer is placed in on a surface of the functional layer that is facing away from the stopper element.

Regarding claims 2-3 and 5-7: The profiled body comprises consists of incompressible material and the profile body consists of metal. The stopper element is formed by a separate ring element (21). The stopper element is created through the flanging (method limitations given little patentable weight in an apparatus claim) of a ring element (ring element 21). The stopper element is placed between two functional layers (20 and 26) where the at least one leveling layer (25) is placed on the surface of the functional layer facing away from the stopper element.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Udagawa, Woolson and Miyaoh et al.

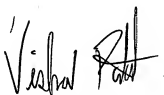
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is 571-272-7060. The examiner can normally be reached on 6:30am to 8:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer H. Gay can be reached on 571-272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VP
November 30, 2007

A handwritten signature in black ink, appearing to read 'Vishal Patel', with a stylized flourish at the end.

Vishal Patel
Patent Examiner
Tech. Center 3600